



GABRIEL P. HARVIS
BAREE N. FETT

July 11, 2017

BY ECF & EMAIL (sullivanNYSDchambers@nysd.uscourts.gov)

Honorable Richard J. Sullivan
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *Rodriguez v. City of New York, et al.*, 16 CV 2113 (RJS)

Your Honor:

I represent plaintiff in the above-referenced civil rights action. I write to respectfully: 1) request an adjournment of the Initial Conference from July 18, 2017 to a date convenient to the Court;¹ and 2) submit, pursuant to the Court's order dated June 13, 2017, the parties joint letter, proposed case management plan and scheduling order. Defendant City of New York consents to plaintiff's request for an adjournment of the Initial Conference. This is plaintiff's first request for an adjournment of the Initial Conference.

Brief Statement of the Nature of the Action

Infant plaintiff N.T. alleges that on the morning of November 13, 2015, when she was fourteen years old, NYPD officers assaulted her in the lobby of her apartment building at 941 Intervale Avenue in the Bronx. At the time of the incident, defendants were in the process of violently arresting her brother. N.T. pleaded with officers to stop when several large male officers assaulted her, including by shoving her against a

¹ If it should please the Court, after contacting Chambers today to determine the Court's availability, the parties respectfully propose the following dates and times for the Court's consideration: July 31, 2017 after 2:30 p.m.; August 1, 2017, between 2:00 p.m. and 3:30 p.m.; and August 2, 2017 after 2:00 p.m.

Hon. Richard J. Sullivan

July 11, 2017

MEMO ENDORSED

wall, throwing her to the ground and striking her with a baton. N.T. was approximately five feet tall and eighty-five pounds at the time. The assault was captured on surveillance video and plaintiff's subsequent CCRB complaint of excessive force was substantiated.

Principal Defenses

Upon information and belief, on November 13, 2015, at approximately 7:00 a.m., multiple officers from the 41st Precinct, including PO Mandeep Singh, responded to a call for a stabbing at 941 Intervale Avenue in the Bronx. The suspected perpetrator, plaintiff's brother, fled into housing where he was arrested by several officers. Plaintiff attempted to interfere in her brother's arrest, and punched one of the arresting officers. She was pulled away from her brother and the officers arresting him, and then PO Singh struck her with an asp several times. Another officer on scene pulled plaintiff away from PO Singh, placed her against the wall, and then placed handcuffs on her. She was transported to the 41st Precinct, where she remained for approximately an hour and twenty minutes, before being released with a juvenile report into the custody of her mother. Plaintiff then proceeded to St. Barnabas, where medical staff examined her and took several x-rays before releasing her with, *inter alia*, crutches, ace bandaging, and ibuprofen. The medical staff at St. Barnabas noted redness around plaintiff's left ear, as well as soft tissue prominence along the anterior ankle joint, and anterior distal tibia as well. She was not prosecuted or charged in connection with this incident.

Jurisdiction and Venue

The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331 and 1343. This Court has supplemental jurisdiction over the New York State claims pursuant to 28 U.S.C. § 1367. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c). Defendant City of New York does not dispute jurisdiction or venue.

Discovery

The parties have exchanged preliminary discovery, including plaintiff's medical records and the surveillance video. Plaintiff will seek production of all NYPD paperwork related to the incident, including the officers' memo books, as well as the defendant officers' disciplinary and personnel records. Plaintiff will depose the defendant officers.

Hon. Richard J. Sullivan

July 11, 2017

Prior Settlement Discussions

Plaintiff conveyed a written settlement demand by email on February 17, 2017. Defendants have not responded to plaintiff's demand as of this writing. Plaintiff is informed that defendant Singh, who struck plaintiff with a baton, is not being represented by the office of the New York City Corporation Counsel in this action.

Estimated Length of Trial

The parties have conferred and anticipate the trial to last for approximately three to four days.

Thank you for your consideration of this matter.

Respectfully submitted,



Baree N. Fett

Encl.

cc: Daniel Oliner, Esq.

Pursuant to Plaintiff's request, the initial conference currently scheduled for July 18, 2017 is adjourned to July 31, 2017 at 2:30 p.m.

SO ORDERED

Dated:

7/14/17


RICHARD J. SULLIVAN
U.S.D.J.